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C O N F I D E N T I A L SECTION 01 OF 02 BEIRUT 000322

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TAGS: [IS](#) [LE](#) [PGOV](#) [PREL](#) [PTER](#) [SY](#)
SUBJECT: MGLE01: JUSTICE MINISTER RIZK DISCUSSES
INTERNATIONAL TRIBUNAL

REF: BEIRUT 304

Classified By: Ambassador Jeffrey Feltman. Reason: Section 1.4 (d).

SUMMARY

1. (C) Justice Minister Charles Rizk said that an international tribunal formed under the auspices of the UN Security Council, but operating in accordance with Lebanese law, was the only way to prosecute not only those responsible for the assassination of Rafiq Hariri, but those responsible for the other significant acts of political violence committed in Lebanon since October 2004. The minister said his staff is currently studying whether existing Lebanese law permits prosecution of suspects in an international tribunal; if not, he said, parliament would have to pass an enabling statute, but that was a path he wished to avoid. Rizk emphasized the critical protective role that the UNIIIC and the proposed international tribunal provide to Lebanon's embattled judiciary. He rejected moving in the direction of a Lockerbie-type trial because of the fear that Lebanese judges' families would be targetted for retribution. End summary.

2. (C) Minister Charles Rizk -- who while allied with President Lahoud has taken pro-reform positions in favor of a credible and independent judiciary -- met with the Ambassador and poloff at the Justice Ministry on February 2. Although the primary focus of the meeting centered on the requested extradition of TWA hijacking fugitives and the status of the Kelsey Klotz child custody case (reftel), Minister Rizk also discussed factors involved with the establishment of an international tribunal to try those responsible for the February 14, 2005 assassination of former Prime Minister Rafiq Hariri.

3. (C) Rizk explained the importance to Lebanon of maintaining progress toward the establishment of the international tribunal. He described the heavy influence of intimidation that judges and investigating magistrates engaged in politically sensitive cases still feel in Lebanon. He argued that the key advantage of the new "technical assistance" mandate for UNIIIC under UNSCR 1644 is that it provides protection for MOJ staff working on the investigation and those who may be involved with the proposed tribunal. Rizk implied that all parties, even the Syrians, give at least nominal support to the UN effort. He reminded the Ambassador that Lebanon has a long tradition of legal expertise, but after 30 years of Syrian intimidation, it required a shield behind which it could execute its responsibilities to the people.

ORGANIZATION

14. (SBU) Regarding the specific organization of the proposed tribunal, Rizk strongly recommended a judicial construct that ruled on legal matters in accordance with Lebanese law, but operated with a strong international component, particularly with regard to its judges. The minister felt it would be best for all concerned if the presiding judge were Lebanese, while the court's associate jurists would be selected from an international pool of experts in anti-terrorism jurisprudence. Rizk specifically rejected a Lockerbie-type arrangement, where Lebanese judges would sit in a Lebanese court outside Lebanon. Even though the judges might be safe, their families, at home in Lebanon, would not be, Rizk worried. By having a chief judge that is Lebanese but four other judges who are not, one can gain both Lebanese input but also safety and judicial impartiality.

LOCATION

15. (SBU) Rizk felt the physical location of the tribunal for the duration of the proceedings had to be outside Lebanon, for the same reason that governed the selection of jurists, i.e., an atmosphere of highly effective political intimidation remains inside Lebanon. He had heard suggestions that the British base of Akrotiri on Cyprus would be a reasonable choice from a logistical perspective, but the minister felt a more widely recognized center of international law, such as Geneva or The Hague, would be more appropriate in terms of credibility and influence. He also stated that if the tribunal's mandate were broadened, as hoped, to prosecute other significant acts of political

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violence, he anticipated a lifespan that could be better supported in a principal city. (Note: Minister Rizk said he considered five cases, besides Hariri, worthy of consideration by the tribunal: the assassinations of Samir Kassir and Gebran Tueni, and the attempted assassinations of Elias Murr, Marwan Hamadeh and May Chidiac. End note.)

16. (SBU) Minister Rizk indicated his staff is currently studying the extent to which Lebanese law would permit its citizens to be tried under the jurisdiction of an international tribunal, even one operating in accordance with Lebanon's judicial code. He hoped this would be the case, but if referral to the parliament was necessary for enabling legislation, he was prepared to do that with alacrity. Although in this case he preferred the Anglo-Saxon legal concept of the separation of prosecution and judge, he felt he had to stay within the French-derived Lebanese legal system which relied on the concept of the investigating magistrate.

COORDINATION WITH UN

17. (SBU) With regard to coordination with the UN, Rizk said a team of legal experts would soon be traveling to New York to discuss the legal options available. Rizk cautioned that naming this team may not be easy because, as with almost every institution in Lebanon, it would have to consist of a confessional mix of participants to insulate itself from criticism of sectarian bias.

18. (C) Minister Rizk indicated he was looking forward to working with new UNIIIC investigator Serge Brammertz and his team. He particularly appreciated the apparent new emphasis on the Syrian aspects of the case, as well as the broader scope envisioned under UNSCR 1644 to include other acts of political violence. Rizk noted that Lebanon's state prosecutor, Said Mirza, appeared to be developing a better working relationship with Brammertz than he had with the first UNIIIC investigator.

